

## **ARTICLE 8**

### **SPECIAL PERMITS**

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### **SPECIAL PERMITS**

#### **PART 0      8-000   GENERAL PROVISIONS**

##### **8-001      Purpose and Intent**

There are certain uses, like those regulated by special exception, which, by their nature, can have an undue impact upon or be incompatible with other uses of land. These uses as described may be allowed to locate within given designated zoning districts under the controls, limitations, and regulations of a special permit.

The BZA may approve a special permit under the provisions of this Article, when it is concluded that the proposed use complies with all specified standards and that such use will be compatible with existing or planned development in the general area. In addition, in approving a special permit, the BZA may stipulate such conditions and restrictions, including, but not limited to, those specifically contained herein, to ensure that the use will be compatible with the neighborhood in which it is proposed to be located. Where such cannot be accomplished, or it is determined that the use is not in accordance with all applicable standards of this Ordinance, the BZA shall deny the special permit.

##### **8-002      Authorization**

In consideration of an application filed with the Zoning Administrator, the BZA may authorize the establishment of those uses that are expressly listed as special permit uses in a particular zoning district; provided, however, that no such permit shall be required for a use allowed as a permitted use in such district, notwithstanding that such use may also be included in a use group available by special permit.

No special permit use shall be authorized unless said use complies with all of the applicable standards of this Article 8 and all other applicable requirements of this Ordinance.

Notwithstanding the foregoing, any special permit use permitted by this Article, when located within a floodplain shall also be approved by the Board as a special exception in accordance with the provisions of Sect. 9-606.

##### **8-003      Limits on Authority**

The BZA shall have no authority to vary, modify or waive any of the regulations or standards prescribed for any use for which a special permit is required; and any purported such modification, variance, or waiver shall ipso facto nullify the action of the BZA in approving any special permit hereunder. The BZA's discretion shall be limited to determinations with respect to the standards applying to the use covered by the application.

This provision shall not preclude any concurrent, but jurisdictionally separate, proceedings applying to the same property, in which application is made for a variance.

The jurisdiction of the BZA with respect to any use or purpose for which the BZA is authorized to approve special permits shall be confined to the consideration of the question of conformity to the provisions of this Ordinance. On an affirmative finding with respect to conformity, the BZA may approve the special permit applied for subject to whatever conditions and restrictions are deemed necessary under the provisions of Sect. 007 below.

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### 8-004

#### Status of Special Permit Uses

1. Once a special permit is approved, any site plan, subdivision plat, Building Permit, Residential or Non-Residential Use Permit hereafter submitted for the development or use of the property in accordance with the special permit shall be in substantial conformance with the approved special permit, and no development or use shall be approved by any County official in the absence of such conformance.
2. Once established, the use shall be conducted in substantial conformance with the permit, any conditions or restrictions imposed by the BZA, and all other requirements of this Ordinance. Except as may be permitted under Paragraphs 3 and 4 below, no use shall be enlarged, expanded, increased in intensity or relocated and no condition of the special permit shall be modified unless an application is made and approved for an amendment to the special permit in accordance with Sect. 014 below or a new special permit is approved.
3. Notwithstanding the above, any modification to an approved and currently valid special permit to provide an accessibility improvement shall be permitted and shall not require approval of an amendment to the special permit or a new special permit.
4. Minor modifications to an approved special permit may be permitted when it is determined by the Zoning Administrator that such are in substantial conformance with the approved special permit and that such: are in response to issues of topography, drainage, underground utilities, structural safety, layout, design, vehicular circulation, or requirements of the Virginia Department of Transportation or Fairfax County; or are accessory uses; or are accessory structures or minor building additions as permitted by Par. 4A(6) or 4B(6) below.
  - A. For approved special permits for all uses, other than churches, chapels, temples, synagogues and other such places of worship (hereinafter places of worship) and places of worship with a child care center, nursery school or private school of general or special education, the modifications shall, in no event:
    - (1) Permit a more intensive use which shall include but not be limited to an expansion of the hours of operation or an increase in number of seats, students or employees from that approved pursuant to the special permit; or
    - (2) Result in an increased parking requirement, except for any additional parking which may be required for any building additions or modifications permitted under Par. 4A(6) below; or
    - (3) Permit uses other than those approved pursuant to the special permit, except that accessory uses in accordance with this paragraph may be permitted; or
    - (4) Reduce the effectiveness of approved transitional screening, buffering, landscaping or open space; or
    - (5) Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or

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- (6) Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use, and minor additions to buildings may be permitted, provided that the sum total of all such structures or additions shall not exceed the following:
  - (a) five (5) percent of the approved gross floor area or 500 square feet of gross floor area, whichever is less, when the total gross floor area shown on the approved special permit plat is less than 50,000 square feet; or
  - (b) one (1) percent of the approved gross floor area when the total gross floor area shown on the approved special permit plat is 50,000 square feet or more; or
  - (c) 250 square feet of gross floor area of accessory storage structure uses when the total gross floor area shown on the approved special permit plat is 10,000 square feet or less; and
  - (d) the maximum permitted FAR for the zoning district in which located.
- B. For approved special permits for places of worship and places of worship with a child care center, nursery school or private school of general or special education, the modifications shall, in no event:
  - (1) Permit an expansion of the hours of operation from that approved pursuant to the special permit; or
  - (2) Permit an increase in the number of seats, parking spaces or students, if applicable, which exceeds more than ten (10) percent of the amount approved pursuant to the special permit; or
  - (3) Permit uses other than those approved pursuant to the special permit, except that accessory uses in accordance with this paragraph may be permitted; or
  - (4) Reduce the effectiveness of approved transitional screening, buffering, and landscaping or open space; or
  - (5) Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or
  - (6) Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use, and minor additions to buildings may be permitted, provided that:
    - (a) the sum total of all such structures or additions shall not exceed the greater of 500 square feet of gross floor area, or five (5) percent of the approved gross floor area up to a maximum of 2500 square feet of gross floor area; and

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- (b) the maximum permitted FAR for the zoning district shall not be exceeded.
- C. For all approved special permit uses, any request for an addition shall require the provision of written notice by the requester in accordance with the following:
  - (1) the notice shall include the letter of request with all attachments as submitted to the Zoning Administrator, a statement that the request has been submitted, and where to call for additional information; and
  - (2) the notice shall be sent to the last known address of the owners, as shown in the real estate assessment files of the Department of Tax Administration, of all property abutting and across the street from the site, or portion thereof, which is the subject of the request, and shall be delivered by hand or sent by certified mail, return receipt requested.

The request for an addition submitted to the Zoning Administrator shall include: an affidavit from the requester affirming that the required notice has been provided in accordance with the above; the date that the notice was delivered or sent; the names and addresses of all persons notified; and the Tax Map references for all parcels notified. No request for an addition shall be considered by the Zoning Administrator unless the affidavit has been provided in accordance with this paragraph.

When it is determined by the Zoning Administrator that a modification is not in substantial conformance with the approved special permit, such modification shall require the approval of an amendment to the special permit in accordance with Sect. 014 below or a new special permit.

### **8-005 Establishment of Groups**

For purposes of applying specific conditions upon certain types of special permit uses, and for allowing special permit uses to be established only in those zoning districts which are appropriate areas for such uses, all special permit uses are divided into groups of associated or related uses, hereinafter set forth in this Article 8.

### **8-006 General Standards**

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and



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landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.

4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

### **8-007 Conditions and Restrictions**

In addition to those standards set forth in this Article, the BZA, in approving a special permit, may impose such conditions and restrictions upon the proposed use as it may deem necessary in the public interest to secure compliance with the provisions of this Ordinance and to protect the viability of the implementation of the adopted comprehensive plan. Such conditions or restrictions may include but need not be limited to a time limitation on the length of the permit in accordance with the provisions of Sect. 008 below and may require the posting of a guarantee or bond in a reasonable amount by the applicant.

### **8-008 Time Limitations, Extensions, Renewals**

In addition to the time limits set forth in this Article, the BZA may require, as a condition to the approval of any special permit, that it shall be approved for a specified period of time; that it may be subsequently extended for a designated period by the Zoning Administrator; or that it may be periodically renewed by the BZA. The procedure of granting an extension or renewal shall be as presented in Sections 012 and 014 below.

Unless otherwise stipulated by the BZA, a specified period of time shall commence on the date of approval of a special permit.

### **8-009 Application for a Special Permit**

1. An application for a special permit may be made by any property owner, lessee, contract purchaser, official, department, board or bureau of any government or their agent.
2. The application shall be filed with the Zoning Administrator on forms provided by the County. The application shall be complete, and shall be accompanied by those submission requirements set forth in Sect. 011 below, such specific information as may be required for

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a given group or use, and such additional material as may be required by the BZA. The application shall be accompanied by a fee as provided for in Sect. 18-106. No application shall be deemed to be on file with the County until all required submissions have been presented. All applications shall be subject to the provisions of Part 1 of Article 18.

3. The Zoning Administrator shall forward the application to the BZA and such other review body as may be specified for a particular use. Upon receipt, the Clerk of the BZA shall refer a copy of the application to the Planning Commission in accordance with the provisions of Sect. 19-206.
4. Each application shall be scheduled for public hearing, and, in general, shall be heard in the order in which accepted unless otherwise specified by the BZA. All public hearings shall be conducted in accordance with the provisions of Sect. 18-109.
5. The concurring vote of four (4) members of the BZA shall be required to approve a special permit and the BZA shall render a decision on all applications within ninety (90) days from the date of acceptance of the application, unless an extended period is mutually agreed to by the applicant and the BZA, or unless an applicant refuses or neglects to prosecute an application in accordance with the provisions of this Ordinance.

### **8-010 Application for a Temporary Special Permit**

The application for a temporary use as permitted under Group 8 shall be on forms provided by the County, and shall be filed with the Zoning Administrator. The Zoning Administrator shall be the approving authority on all temporary special permits, and such approval shall be in strict accordance with the regulations and time limits set forth in Part 8.

### **8-011 Submission Requirements**

All applications for special permit uses, except for temporary special permits, shall be accompanied by the following items, except that additional or modified submission requirements are set forth in Part 1 for all Extraction and Excavation Uses, in Part 3 for Home Child Care Facilities, in Part 4 for certain Community Uses, in Parts 5 and 6 for certain Commercial Recreation and Outdoor Recreation Uses and in Part 9 for Approval of Modifications to Minimum Yard Requirements for Certain R-C Lots, Approval of Reduction in Minimum Yard Requirements Based on Error in Building Location and Modification to the Limitations on the Keeping of Animals. Upon receipt of a written request with justification, the Zoning Administrator may modify or waive a submission requirement of Par. 2 below, if it is determined that the requirement is clearly not necessary for the review of the application.

1. Four (4) copies of an application on forms provided by the County, completed and signed by the applicant.
2. Twenty-two (22) copies of a plat, including any resubmissions of the plat and supporting graphics, drawn to designated scale of not less than one inch equals fifty feet (1" = 50'), certified by a professional engineer, land surveyor, architect or landscape architect licensed by the State of Virginia, presented on a sheet having a maximum size of 24" x 36", and one 8 ½ x 11" reduction of the plat. If the proposal cannot be accommodated on one 24" x 36" sheet at a scale of 1" = 50', a scale of not less than 1" = 100' may be used. If presented on

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more than one (1) sheet, match lines shall clearly indicate where the several sheets join. Such plat shall contain the following information:

- A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
- B. Total area of the property and of each zoning district in square feet or acres.
- C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
- D. Location, dimensions and maximum height in feet, including penthouses, of all existing and proposed structures, and if known, the location, dimensions and lighting of all signs, and the construction date(s) of all existing structures and an indication whether they will be retained or demolished.
- E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, transitional yards, and the distances from all existing and proposed structures to lot lines.
- F. Public right(s)-of-way, indicating names, route numbers and width, any required and/or proposed improvements to the public right(s)-of-way and delineation of the existing centerline of all streets abutting the property, including dimensions from the existing centerline to the edge of the pavement and to the edge of the right-of-way.
- G. Proposed means of ingress and egress to the property from a public street(s).
- H. Location of parking spaces, existing and/or proposed, indicating minimum distance from the nearest property line(s), and a schedule showing the number of parking spaces provided and the number required by the provisions of Article 11.
- I. Location of well and/or septic field, or indication that the property is served by public water and/or sewer. Where applicable, a statement from the Health Department that available facilities are adequate for the proposed use.
- J. Approximate location and estimated size of all proposed stormwater management facilities and a statement as to the type of facility proposed.
- K. A statement setting forth the maximum gross floor area and FAR proposed for all uses other than residential, and the maximum density of dwelling units, if applicable.
- L. Existing topography with a maximum contour interval of five (5) feet and a statement indicating whether it is air survey or field run.
- M. A plan showing limits of clearing, existing vegetation, and proposed landscaping and screening in accordance with the provisions of Article 13, to include existing vegetation to be preserved, and when there is 2500 square feet or more of land disturbing activity, an existing vegetation map.

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- N. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.
  - O. Where applicable, seating capacity, usable outdoor recreation area, emergency access, bicycle parking, fencing, outside lighting, and loudspeakers.
  - P. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
  - Q. Location of all trails required by the adopted comprehensive plan.
  - R. Approximate delineation of any grave, object or structure marking a place of burial if known, and a statement indicating how the proposed development will impact the burial site.
  - S. Seal and signature of professional person certifying the plat.
- 3. One (1) copy of the current Fairfax County Zoning Section Sheet(s) at a scale of one inch equals five hundred feet (1" = 500'), covering the area within at least a 500 foot radius of the proposed use, showing the existing zoning classification for all land appearing on the map. If more than one (1) Zoning Section Sheet is required to cover the area, such sheets shall be attached so as to create an intelligible map. The boundaries of the subject site shall be outlined in red thereon.
  - 4. Photographs of the property showing existing structures, terrain and vegetation.
  - 5. An affidavit, as presented on an affidavit form approved by the Board of Supervisors and provided by the County, completed, signed by the applicant or the applicant's authorized agent and notarized, including a statement indicating whether or not a member of the BZA or Planning Commission or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership in stock in a corporation owning such land, or through an interest in a partnership owning such land. If the applicant's agent completes the application or affidavit on the applicant's behalf, a certified statement from the applicant must be submitted showing the agent's authorization to act in such capacity.

Prior to each public hearing on the application, the applicant shall reaffirm the affidavit required by this Paragraph in accordance with the reaffirmation procedure outlined on the affidavit form approved by the Board of Supervisors and provided by the County.
  - 6. A written statement from the applicant describing the proposed use, giving all pertinent data, including specifically:
    - A. Type of operation(s).

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- B. Hours of operation.
  - C. Estimated number of patrons/clients/patients/pupils/etc.
  - D. Proposed number of employees/attendants/teachers/etc.
  - E. Estimate of traffic impact of the proposed use, including the maximum expected trip generation and the distribution of such trips by mode and time of day.
  - F. Vicinity or general area to be served by the use.
  - G. Description of building facade and architecture of proposed new building or additions.
  - H. A listing, if known, of all hazardous or toxic substances as set forth in Title 40, Code of Federal Regulations Parts 116.4, 302.4 and 355; all hazardous waste as set forth in Virginia Department of Environmental Quality Hazardous Waste Management Regulations; and/or petroleum products as defined in Title 40, Code of Federal Regulations Part 280; to be generated, utilized, stored, treated, and/or disposed of on site and the size and contents of any existing or proposed storage tanks or containers.
  - I. A statement that the proposed use conforms to the provisions of all applicable ordinances, regulations, adopted standards and any applicable conditions, or, if any waiver, exception or variance is sought by the applicant from such ordinances, regulations, standards and conditions, such shall be specifically noted with the justification for any such modification.
- 7. A statement which confirms the ownership of the subject property, and the nature of the applicant's interest in same. If the applicant is not the owner of the property involved in the application, evidence must be submitted showing that the applicant will have the right to use the property as proposed.
  - 8. Where applicable, any other information as may be required by the provisions of Article 7.
  - 9. An application fee as provided for in Sect. 18-106.

### 8-012

#### **Extension of a Special Permit**

- 1. A request for an extension of a special permit shall be filed in writing with the Zoning Administrator a minimum of thirty (30) days before the expiration date of the permit unless a lesser time is approved by the Zoning Administrator for good cause shown. The permit shall remain valid until the request for extension is acted upon by the Zoning Administrator.  
Failure to request the extension in a timely manner as specified herein shall cause the special permit to expire without notice on the expiration date.
- 2. The Zoning Administrator shall inspect the special permit use; review the applicant's record of compliance with those conditions and restrictions previously imposed by the BZA; and make a determination on whether the special permit use still satisfies the provisions of this Ordinance.

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3. Upon a favorable finding, the Zoning Administrator shall approve an extension of the special permit for the period of time that may be specified for a particular group or use or that may have been specified by the BZA.
4. If it is determined that the use is not in compliance with all conditions and restrictions previously imposed by the BZA, the Zoning Administrator shall, depending on the nature of the noncompliance, either deny the request for extension or require the remedy of any violation within a specified time. If the request for extension is denied or the applicant fails to correct the violation within the time specified, the special permit shall expire. The approval of a new special permit shall be required prior to any subsequent reinstatement of the use.
5. If it is determined that the use is no longer allowed as a special permit use in the zoning district in which located, the Zoning Administrator shall deny the request and the special permit shall expire.

If the use is not in compliance with any other applicable provisions of this Ordinance, the Zoning Administrator shall deny the request and notify the applicant by certified mail, return receipt requested. Within thirty (30) days of receipt, in order to continue the use, the applicant shall file an amendment application for renewal in accordance with the provisions of Sect. 014 below. Failure to file an application in a timely manner shall cause the special permit to expire.

**8-013**      **(Deleted by Amendment #95-277, Adopted July 31, 1995, Effective August 1, 1995 at 12:01 AM)**

### **8-014      Amendment of a Special Permit**

1. Except as provided for in Paragraphs 3 and 4 of Sect. 004 above, an amendment is a request for any enlargement, expansion, increase in intensity, relocation, reduction in land area, modification of any condition of a previously approved and currently valid special permit use or renewal of a currently valid special permit for a new period of time. An amendment application may be filed on a portion of the property subject to a currently valid special permit, upon a determination by the Zoning Administrator that the amendment (a) would not adversely affect the use of the property subject to the special permit but not incorporated into the amendment application, (b) would not inhibit, adversely affect, or preclude in any manner the fulfillment of the special permit conditions applicable to the area not incorporated into the amendment application, and (c) would not increase the overall approved density/intensity for the development. Previously approved special permit conditions which are not subject to the amendment request shall remain in full force and effect. Except as qualified below, the procedure for an amendment of a special permit shall be the same as specified in this Part for the approval of the original permit, to include the imposition of conditions and restrictions, except the Zoning Administrator may waive any submission requirement if such requirement is deemed not necessary for an adequate review of the application.

An application to renew a special permit use to allow a new period of time for the operation of the use shall be filed prior to the expiration date of the permit and the permit shall remain valid until the application is acted upon by the BZA. However, the BZA shall not approve a renewal application for a use which is no longer allowed as a special permit use in

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the zoning district in which located. Failure to apply for renewal in a timely manner shall cause the special permit to expire without notice on the expiration date.

In reviewing a renewal application, the BZA shall review the applicant's record of compliance with those conditions and restrictions previously imposed and determine if the use still satisfies the provisions of this Ordinance. Upon a favorable finding, the BZA may approve the application. If it is determined that the use is not in accordance with all applicable provisions of this Ordinance, the BZA may, depending on the nature of the noncompliance, deny the application or for an application solely requesting a new period of time, may impose such conditions and restrictions to ensure that the use will be harmonious with and will not adversely affect the use or development of neighboring properties. No alteration of a structure shall be required if such structure was in conformance with the provisions of this Ordinance, the Building Code and other applicable regulations at the time the special permit was first approved, unless the BZA deems such alteration necessary to protect the public health, safety or welfare.

2. For an existing and currently valid special permit use which use is no longer allowed by special permit or special exception in the zoning district in which located, the BZA, upon receipt of an application, may review and approve an amendment to said permit, provided such amendment does not permit the use to be enlarged, expanded, increased in intensity, relocated or continued beyond any time limitation specified in the existing permit.

### **8-015 Expiration of a Special Permit**

1. Whenever a special permit is approved by the BZA, the use authorized thereby shall be established or any construction authorized shall be commenced and diligently prosecuted within such time as the BZA may have specified, or, if no such time has been specified, then within thirty (30) months from the approval date of such permit, unless additional time is approved by the BZA in accordance with Par. 2 below.
2. The BZA may approve a request for additional time, but only in accordance with all of the following:
  - A. A request is filed in writing with the Zoning Administrator prior to the expiration date. Such request shall specify the basis for and amount of additional time requested and shall include an explanation of why the use has not been established or construction commenced and diligently prosecuted in accordance with the time specified in the approval of the special permit. Such explanation may include the occurrence of conditions unforeseen at the time of special permit approval.
  - B. It is determined by the BZA that the use is in accordance with all applicable provisions of the Zoning Ordinance, unless the Board of Supervisors has specifically provided that an amendment adopted subsequent to the approval of the special permit is not applicable to the request for additional time, and that approval of additional time is consistent with the public interest.
3. If a request is timely filed, the permit shall remain valid until the request for additional time is acted upon by the BZA; however, during this period, the use shall not be established nor shall construction commence.

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4. If the use or construction has not commenced in accordance with the above provisions, then the special permit shall automatically expire without notice.

### 8-016

#### **Termination or Revocation of a Special Permit**

1. Unless a time limit is specified for a special permit, the same shall be valid for an indefinite period of time, except that if the use or activity should cease for any reason for a continuous period of two (2) years or more, the special permit shall automatically terminate without notice. The approval of a new special permit shall be required prior to any subsequent reinstatement of the use.

2. A special permit shall be revocable by the BZA at any time because of the failure of the owner or operator of the use covered by the special permit to comply with the terms or conditions of the special permit.

Before revoking any special permit, the BZA shall conduct a public hearing and provide notice in accordance with the provisions of Sect. 18-110. The BZA or its agent shall give the permittee at least twenty (20) days advance written notice of the hearing date either by certified mail, return receipt requested, or by hand delivery, and the notice shall contain:

- A. The grounds for the proposed revocation of the special permit; and
- B. The date, time and place of the public hearing.

The above provisions shall remain applicable to a use covered by a special permit, which use has, subsequent to the approval of the special permit, been reclassified to a special exception use, until a special exception is approved for the use due to an enlargement, expansion, increase in intensity, relocation or modification of a special permit condition and then the revocation provisions of Sect. 9-016 shall apply.

3. The foregoing provisions shall not be deemed to preclude the use of any other remedy prescribed by law or by this Ordinance with respect to violations of the provisions of this Ordinance.



## SPECIAL PERMITS

### **PART 1      8-100   GROUP 1 EXTRACTION AND EXCAVATION USES**

#### **8-101      Group 1 Special Permit Uses**

1. Removal of sand or gravel by excavating, stripping, dredging, mining or otherwise taking other than as permitted by right under the provisions of Sect. 2-601; but not including the treating, crushing or processing of the same. No permit for such sand or gravel removal shall be approved by the BZA for any parcel or area not designated in the adopted comprehensive plan for consideration of such a use.
2. Removal of soil by excavating, stripping, dredging, mining or otherwise taking other than as permitted by right under the provisions of Sect. 2-601; but not including the treating, crushing or processing of the same.
3. Stone quarrying.
4. Extraction of materials other than those specifically enumerated in this Part.
5. Crushing, treating, washing and/or processing of materials resulting from a use permitted under the four immediately preceding Paragraphs when conducted on the same property.

#### **8-102      Districts in Which Group 1 Uses May be Located**

Group 1 special permit uses may be allowed only in those areas designated as Natural Resource Overlay Districts as established in Part 3 of Article 7.

#### **8-103      Application**

In addition to the submission requirements set forth in Sect. 011 above, all applications for Group 1 uses shall be accompanied by the following items:

1. Five (5) copies of a plat prepared by an engineer or surveyor licensed by the State, drawn to a scale of one inch equals one hundred feet (1" = 100'). Such plat shall show:
  - A. The boundary of the entire tract with bearings and distances.
  - B. Limits and current field topography, including locations of water courses, of the part of the tract that is proposed to be used for the operations set forth in the application, and of the contiguous area within 250 feet of such proposed limits or such greater distance as may be specified by the Director.
  - C. Average thickness of overburden within the limits of the proposed use.
  - D. Means of vehicular access to the proposed use indicating the proposed type of surface treatment.
2. One (1) vertical aerial photograph, enlarged to a scale of one inch equals five hundred feet (1" = 500'), from the original photography flown at a negative scale no smaller than one inch equals one thousand feet (1" = 1000'), and certified as flown not earlier than six (6) months

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prior to the date on which the application is submitted. The area covered by such photo shall include:

- A. All land included in the application for a special permit.
  - B. All contiguous land which is or has been used by the applicant for such use or a related use.
  - C. All public roads which provide access to the proposed use.
  - D. All residentially zoned land within 500 feet of the area proposed for such use.
3. One (or more if necessary to cover the area) Fairfax County Zoning Section Sheet indicating the same area covered by the aerial photograph in Par. 2 above. Such section sheet shall clearly indicate the area proposed for such use by a red line drawn following the boundary thereof. If more than one (1) Zoning Section Sheet is required to cover the area, such sheets shall be attached so as to create an intelligible map.
4. Five (5) copies of a report which describes the proposed use and includes the following:
- A. A detailed list of the type and quantity of equipment to be used in connection with the use, including bulldozers, cranes, washers, crushing equipment, trucks, and all other mechanical equipment.
  - B. An estimate of the number of trucks proposed to enter and leave the property per day.
  - C. The proposed hours of operation each day, and the proposed days of operation during the week.
  - D. The proposed period of time necessary to complete the use proposed, and the time schedule for a restoration program. This item shall include a time certain by which the applicant believes that all uses under the application should be completed and all restoration complete.
5. The plan for operation of the natural resource excavation or extraction, prepared by an engineer or surveyor licensed by the State, shall be submitted as a transparent overlay at the same scale and covering the same area as the vertical aerial photograph required in Par. 2 above. All of the following items which are applicable to the permit application shall be delineated and the location, limits and title of each of the items shall be indicated on the transparent overlay, and the area in square feet of each shall be provided on a one-page supplemental report:
- A. Area of any previous, currently active, and proposed excavation.
  - B. Area of active settling ponds and washing facilities.
  - C. Areas of existing and proposed crushing or treatment facilities.
  - D. Areas of existing and proposed storage of extracted material.

## SPECIAL PERMITS

- E. Areas of existing and proposed production facilities or resource related uses.
  - F. Location and type of any existing and proposed erosion control facilities.
6. The plan for the restoration of the site, prepared by an engineer or surveyor licensed by the State, shall be submitted as a transparent overlay at the same scale and covering the same area as the vertical aerial photograph required in Par. 2 above. All of the following items which are applicable to the permit application shall be delineated and the location, limits and title of each of the items shall be indicated on the transparent overlay, and the area in square feet of each shall be provided on a one-page supplemental report:
- A. The area proposed to be restored.
  - B. The area of any current restoration now in progress.
  - C. The area of any previous restoration.
  - D. The area currently used for topsoil and overburden storage.
7. Three (3) copies of a final grading plan for the site, prepared by an engineer or surveyor licensed by the State, shall be submitted at the same scale and covering the same area as the vertical aerial photograph required in Par. 2 above. All of the following items which are applicable to the permit application shall be delineated:
- A. Final proposed topography of the site after completion of all proposed restoration.
  - B. Proposed depth of topsoil and location of any planting restoration, including type of plant material.
  - C. The direction of all drainage, shown by arrows, after restoration.
  - D. Any roadways and driveways which are not proposed to be removed during restoration, and their surfacing material.
8. Receipts for certified letters mailed to all contiguous property owners notifying said owners that an application for the proposed use is being filed with the appropriate County officials. Such notice shall precede the hearing by the BZA by not less than sixty (60) days.
9. A letter signed by the applicant and by the owner of the property granting the right of entry upon the property to the Director, law enforcement agents, and County inspectors for the purpose of inspecting, and bringing law enforcement to the property, during the term of any permit which may be issued.
10. A soils analysis of the property, including test borings as required by the Director, and a written report setting forth the effects, if any, of the proposed operation upon the stability of soils, the water table, wells and septic fields within the area, and other soil factors which may have an effect upon nearby properties.

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11. As a condition of approval, the applicant shall post with the County a bond in an amount to be set by the BZA. Such bond shall be with surety satisfactory to the bonding committee appointed by the Board of Supervisors. The bond shall be conditioned upon restoration in accordance with the approved restoration plan within 180 days following the expiration of the special permit. The bond shall be accompanied by an instrument in writing, effectively granting to the County or its officers, agents and employees, a right to enter the property which is the subject of the permit for the purpose of inspection and of restoration if required.

### 8-104

#### Administration

The administration of a Group 1 special permit shall be in accordance with the provisions of Part 0 and those additional provisions set forth below:

1. The completed application, including all items required by the provisions of Sect. 103 above, shall be submitted to the Zoning Administrator who shall review it for completeness, and shall refer it to the Director and other County staff for review of erosion, siltation, drainage and access considerations.
2. Following such staff review, the application shall be set on the agenda of the BZA, where such application shall be heard in the manner and according to the same procedures as any other special permit application.
3. The application shall be approved or denied within not less than 60 or more than 180 days after a complete application is filed by the applicant except under abnormal circumstances. The running of this period shall be suspended during any time when the application is returned to the applicant for the furnishing of further information.
4. The BZA may grant a special permit for a stone quarry for a period not to exceed five (5) years. Such special permit may be extended in accordance with the provisions of Sect. 012 above for a period not to exceed five (5) years. Only one (1) such extension may be granted, and at the end of a ten (10) year period, a permit may be renewed in accordance with the provisions of Sect. 014 above.
5. The BZA may grant a special permit for all other Group 1 uses except a stone quarry for a period not to exceed two (2) years. Such permit may be extended in accordance with the provisions of Sect. 012 above for not more than one additional two (2) year period.
6. All natural resource related operations and uses approved under any previous ordinance for which an expiration date has been established, either by that previous ordinance or by a condition placed thereon by the BZA, shall expire on such date and may only be renewed or extended in accordance with the provisions of this Ordinance.
7. The Zoning Administrator shall make an annual inspection of each Group 1 use and shall make a report of the findings to the BZA. Such report shall include the following:
  - A. A statement of whether or not the operation is in compliance with all of the requirements of the special permit.

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- B. A statement of changes which have occurred in the vicinity since the granting of the application, such as new development in the area.
  - C. A statement on the condition of the roads in the area which might indicate the spillage of material from trucks.
8. As a result of the annual inspection, the Zoning Administrator may find it necessary, for the health, safety and welfare of the general public, to recommend additional restrictions and limitations on such use. In such event, the Zoning Administrator shall transmit the findings to the BZA which shall hold a public hearing following notice in accordance with the provisions of Sect. 18-110.

### **8-105 Standards for all Group 1 Uses**

In addition to the general standards set forth in Sect. 006 above, all Group 1 special permit uses shall satisfy the following standards:

- 1. No permit for a Group 1 use shall be issued for any tract of land containing less than twenty (20) acres. This requirement, however, shall not preclude the approval of a permit to enlarge or extend an existing Group 1 use onto contiguous land containing less than twenty (20) acres.
- 2. With the exception of stone quarrying and related grading activity, no grading, mining, excavating, removal of trees or other disturbance of natural vegetation shall be permitted within 200 feet of contiguous property subdivided into residential lots of one (1) acre or smaller not under the ownership or control of the applicant, nor within 250 feet of an occupied dwelling.

Exceptions to the setbacks established above for all uses except stone quarrying may be granted by the BZA subject to compliance with the following:

  - A. The applicant shall have submitted, with his application, a notarized letter, signed by the owner of the adjacent property, indicating approval of such encroachment, and
  - B. The ultimate grades of the proposed encroachment will be suitable for future development of the property in accordance with the adopted comprehensive plan for that area.
- 3. All natural resource extraction, quarrying and related operations shall be in conformance with the provisions of Sect. 2-603 relating to erosion and sedimentation.
- 4. No building or structure used in connection with such an operation, except buildings for office and administrative purposes only, shall be located within 200 feet of (a) the right-of-way of any public street or (b) any adjoining property. Buildings devoted solely to office and/or administrative uses may be constructed not less than 100 feet from such street or property line when specifically approved as part of the special permit.
- 5. In conjunction with all Group 1 uses except stone quarrying, no washing, crushing, processing or similar operation shall be conducted within 200 feet of (a) the right-of-way line of any public street or (b) any adjoining residential property.

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6. In conjunction with a stone quarry, no washing, crushing, processing or similar operation shall be conducted within 200 feet of the right-of-way of any public street or a safe distance to be established by the BZA from any adjoining occupied dwelling. No stone quarrying or related grading activity, except restoration work, shall be permitted within 150 feet of contiguous property subdivided into residential lots of one (1) acre or smaller, not owned or controlled by the applicant, or the right-of-way of any public street.

Exceptions to the setbacks established above may be granted by the BZA subject to compliance with the following:

The applicant shall have submitted, with his application, a notarized letter, signed by the owner of the adjacent property, indicating approval of such encroachment.

7. The setback requirements of Par. 4 and 6 above shall not apply to quarries or quarry related uses existing prior to the effective date of this Ordinance nor to extensions granted therefor.
8. The top of all open excavations having a depth of ten (10) feet or more, which will create a slope of forty-five (45) degrees or more from the horizontal and which shall remain for a period of more than twenty-four (24) hours, shall be enclosed by a substantial fence erected at least fifty (50) feet outside the excavation. Such fence shall be not less than six (6) feet in height, and shall effectively control access to such excavation.
9. All operations shall be limited to the hours of 7 AM to 6 PM provided however the BZA may modify the hours to permit loading and delivery after 6 PM, upon a determination that such modification will not adversely impact the surrounding area.
10. All settlement ponds used in connection with an operation, except those entirely within a fenced area required by Par. 8 above, shall be fenced with at least a six (6) foot chain link fence having an 18" to 24" arm above the chain link fence with at least three (3) strands of barbed wire - four barb, equipped with a locked gate at all access points.
11. All vehicles used to transport excavated material shall be required to be loaded in such manner that the material may not unintentionally be discharged from the vehicle. Trucks shall be cleaned of all material not in the load-bed prior to entering the public streets.
12. Existing trees and ground cover along public road frontage shall be preserved, maintained and supplemented by selective cutting, transplanting, and addition of new trees, shrubs and other ground cover for the depth of the roadside setback.

The type, time of planting, design and spacing of planting screen shall be approved by the Director. Approval of maintenance of roadside landscape area by the Director shall be required for permit extension and permit renewal.

The function of the roadside landscape area is threefold: (a) to dignify the purpose of the natural resource area and protect it from becoming an eyesore; (b) to dampen noise from operation of equipment; and (c) to absorb dust that might result from the operations.

Where it is determined by the Director that roadside landscaping is not practical because of soil and/or operation conditions, screening shall be provided in the form of a fence, wall or berm.

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13. Notwithstanding the provisions of the underlying zoning district in which a Group 1 use may be located, all Group 1 special permit operations shall be subject to only the following performance standards:
  - A. No blasting shall be permitted except in conjunction with a permit for stone quarrying.
  - B. Blasting vibration shall be limited to a maximum resultant peak particle velocity of 1.5 inches per second in the earth as measured at any occupied structure not on quarry property. In addition, the BZA may further limit such blasting vibration where, in its opinion, the density of population in the area warrants additional protection.
  - C. Earth vibration produced from sources other than blasting shall not exceed 0.05 inches per second at any occupied structure not on the subject property.
  - D. The peak over-pressure (noise) from any blast shall be limited to 0.0092 pounds per square inch (130 decibels) at any occupied structure not on the subject property.
  - E. Airborne noise produced from sources other than blasting shall not exceed, at any structure not on the subject property, 10dB(A) above the ambient in residential districts and/or 16dB(A) in commercial districts.

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## SPECIAL PERMITS

### **PART 2      8-200   GROUP 2   INTERMENT USES**

#### **8-201      Group 2 Special Permit Uses**

1. Cemetery for human or animal interment.
2. Columbarium and mausoleum when used in conjunction with a cemetery.
3. Crematory, human or animal.
4. Funeral home, if located in an already existing cemetery of more than seventy-five (75) acres.

#### **8-202      Districts in Which Group 2 Uses May be Located**

1. Group 2 uses may be permitted by right in the following districts:  
  
PDH, PRC Districts: All uses when represented on an approved development plan  
  
I-4, I-5, I-6 Districts: Limited to use 3
2. Group 2 uses may be allowed by special permit in the R-E through R-4 Districts.

#### **8-203      Standards for all Group 2 Uses**

In addition to the general standards set forth in Sect. 006 above, all Group 2 special permit uses shall satisfy the following standards:

1. All uses shall comply with the provisions set forth in Chapter 3 of Title 57 of the Code of Virginia.
2. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, but in no instance shall an interment in any facility for the disposal of the dead be made within fifty (50) feet of a street line.
3. All uses shall comply with the performance standards specified for the zoning district in which located.
4. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans.

#### **8-204      Additional Standards for Columbariums, Mausoleums and Crematories**

1. No columbarium or mausoleum shall be located closer than 50 feet to any lot line.
2. No crematory shall be located closer than 250 feet to any lot line.
3. Crematories shall meet all applicable federal, state and local emission control standards for incinerators.

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## SPECIAL PERMITS

### **PART 3      8-300   GROUP 3   INSTITUTIONAL USES**

#### **8-301      Group 3 Special Permit Uses**

1.    (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)
2.    Churches, chapels, temples, synagogues and other such places of worship.
3.    Convents, monasteries, seminaries and nunneries.
4.    (Deleted by Amendment #83-72, Adopted January 31, 1983)
5.    Home child care facilities.
6.    Group housekeeping units.
7.    (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)
8.    (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)
9.    (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)
10.   Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school, or private school of general or special education.

#### **8-302      Districts in Which Group 3 Uses May be Located**

1.    Group 3 uses may be permitted by right in the following districts:  
  
R-12, R-16, R-20, R-30, R-MHP Districts: Limited to use 2  
  
PDH, PDC, PRC Districts: All uses when represented on an approved development plan  
PRM District: Limited to uses 2, 5 and 10 when represented on an approved development plan  
  
C-1, C-2, C-3, C-4 Districts: Limited to uses 2 and 10  
C-5, C-6, C-7, C-8, C-9 Districts: Limited to use 2  
  
All I Districts: Limited to use 2
2.    Group 3 uses may be allowed by special permit in the following districts:  
  
R-A District: Limited to use 5  
R-P, R-C Districts: Limited to uses 2, 5 and 10  
R-E, R-1, R-2, R-3, R-4, R-5, R-8 Districts: All uses  
R-12, R-16, R-20, R-30, R-MHP Districts: Limited to uses 3, 5, 6 and 10  
  
C-5, C-6, C-7, C-8 Districts: Limited to uses 3 and 10  
C-9 District: Limited to use 10

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I-I District: Limited to use 10

I-1, I-2, I-3 Districts: Limited to uses 3 and 10

I-4, I-5, I-6 Districts: Limited to use 10

### **8-303 Standards for all Group 3 Uses**

In addition to the general standards set forth in Sect. 006 above, all Group 3 special permit uses shall satisfy the following standards:

1. Except as may be qualified in the following Sections, all uses shall comply with the lot size and bulk regulations of the zoning district in which located; however, subject to the provisions of Sect. 9-607, the maximum building height for a Group 3 use may be increased.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, except home child care facilities, shall be subject to the provisions of Article 17, Site Plans.

### **8-304 (Deleted by Amendment #83-72, Adopted January 31, 1983)**

### **8-305 Additional Standards for Home Child Care Facilities**

1. The number of children that may be cared for in a home child care facility may exceed the number of children permitted under Par. 6A of Sect. 10-103, but in no event shall the maximum number of children permitted at any one time exceed ten (10), excluding the provider's own children. The BZA may also allow more than one nonresident person to be involved with the use.
2. The BZA shall review all existing and/or proposed parking to determine if such parking is sufficient. The BZA may require the provision of additional off-street parking spaces based on the maximum number of vehicles expected to be on site at any one time and such parking shall be in addition to the requirement for the dwelling unit.
3. The provisions of Article 13 shall not apply to home child care facilities, however, the BZA may require the provision of landscaping and screening based on the specifics of each application.
4. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plan drawn to scale. The plan, which may be prepared by the applicant, shall contain the following information:
  - A. The dimensions, boundary lines and area of the lot or parcel.
  - B. The location, dimensions and height of any building, structure or addition, whether existing or proposed.

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- C. The distance from all property lines to the existing or proposed building, structure or addition, shown to the nearest foot.
  - D. The dimensions and size of all outdoor recreation space and the location of such space in relation to all lot lines.
5. All such uses shall be subject to the regulations of Chapter 30 of The Code or Sect. 63.1-196 of the Code of Virginia.

**8-306** (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)

**8-307** (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)

**8-308 Additional Standards for Churches, Chapels, Temples, Synagogues or Other Such Places of Worship With a Child Care Center, Nursery School or Private School**

Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school of general or special education may be approved as a special permit use in accordance with the provisions of this Part or as a special exception use in accordance with the provisions of Part 3 of Article 9. The choice of whether to file an application for a special permit or special exception shall be at the applicant's discretion. In either event, such use shall be subject to the additional standards set forth in Sections 9-309 and 9-310.

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## SPECIAL PERMITS

### **PART 4      8-400   GROUP 4   COMMUNITY USES**

#### **8-401      Group 4 Special Permit Uses**

1. Community clubs, centers, meeting halls, swimming pools, archery ranges.
2. Swimming clubs and tennis clubs/courts.
3. Marinas, docks and boating facilities of a private, nonprofit nature.
4. Any other recreational or social use, operated by a nonprofit organization, where membership thereto is limited to residents of nearby residential areas.

#### **8-402      Districts in Which Group 4 Uses May be Located**

1. Group 4 uses may be permitted by right in the following districts:  
  
PDH, PDC, PRC Districts: All uses when represented on an approved development plan  
  
C-5, C-6, C-7, C-8 Districts: Limited to community clubs, centers and meeting halls
2. Group 4 uses may be allowed by special permit in the following districts:  
  
All R Districts except R-A: All uses  
  
C-1, C-2, C-3, C-4 Districts: Limited to use 2  
C-5, C-6 Districts: Limited to swimming pools and archery ranges, uses 2, 3 and 4  
C-7, C-8 Districts: Limited to uses 2 and 3  
C-9 District: Limited to use 2  
  
I-1, I-2, I-3, I-4 Districts: All uses  
I-5, I-6 Districts: Limited to use 2

#### **8-403      Standards for all Group 4 Uses**

1. Except for Use 2 set forth in Sect. 401 above, all uses and their related facilities shall be under the control and direction of a board of managers composed, at least in part, of the residents of the area intended to be served by the facility. Further, no Group 4 use shall be operated on a profit-making basis, and the owner of the facility shall be a nonprofit organization where membership thereto is limited to residents of nearby residential areas.
2. All uses shall comply with the bulk regulations of the zoning district in which located.
3. All uses shall comply with the performance standards specified for the zoning district in which located, including the submission of a sports illumination plan as may be required by Part 9 of Article 14.
4. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans.

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## SPECIAL PERMITS

### **PART 5      8-500   GROUP 5   COMMERCIAL RECREATION USES**

#### **8-501      Group 5 Special Permit Uses**

1.     Billiard and pool halls.
2.     Bowling alleys.
3.     Commercial recreation parks, including mechanical or motorized amusement rides/devices.
4.     Commercial swimming pools, tennis courts and similar courts.
5.     Dance halls.
6.     Health clubs.
7.     Indoor firing ranges, archery ranges, fencing and other similar indoor recreational uses.
8.     Miniature golf courses.
9.     Skating facilities.
10.    Any other similar commercial recreation use.

#### **8-502      Districts in Which Group 5 Uses May be Located**

1.     Group 5 uses may be permitted by right in the following districts:  
  
     PDH District: Limited to uses 1, 2, 4, 6, 8 and 9 when represented on an approved development plan  
     PDC District: Limited to uses 1, 2, 4, 6, 7, 8, 9 and 10 when represented on an approved development plan  
     PRC District: All uses when represented on an approved development plan  
     PRM District: Limited to uses 1, 4, 6, indoor archery ranges, fencing and other similar indoor recreational uses, 9 and 10 when represented on an approved development plan  
  
     C-3, C-4, C-5 Districts: Limited to uses 4 (indoor) and 6  
     C-6 District: Limited to uses 4 (indoor), 6 and 8 (indoor)  
     C-7, C-8 Districts: Limited to uses 2, 4 (indoor), 6, archery ranges, fencing and other similar indoor recreational uses, 8 (indoor) and 9 (indoor)  
     C-9 District: Limited to use 6
2.     Group 5 uses may be allowed by special permit in the following districts:  
  
     All R Districts except R-A, R-P and R-C: Limited to use 4  
  
     C-2 District: Limited to use 4  
     C-3, C-4 Districts: Limited to uses 2, 4, (outdoor), archery ranges, fencing, and other similar indoor recreational uses, 8 (indoor) and 9 (indoor)

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C-5 District: Limited to uses 1, 4, (outdoor), archery ranges, fencing, and other similar indoor recreational uses, 8 (indoor) and 9 (indoor)

C-6 District: Limited to uses 1, 2, 4 (outdoor), 5, 7, 8 (outdoor) and 9 (indoor and outdoor)

C-7, C-8 Districts: Limited to uses 1, 3, 4 (outdoor), 5, indoor firing ranges, 8 (outdoor), 9 (outdoor) and 10

C-9 District: Limited to uses 1, 2, 3, 4, 5, 7, 8, 9 and 10

I-1, I-2 Districts: Limited to use 4

I-3, I-4 Districts: Limited to uses 4, 6, 7 and 8

I-5, I-6 Districts: Limited to uses 2, 3, 4, 6, 7, 8 and 9

### **8-503 Standards for all Group 5 Uses**

In addition to the general standards set forth in Sect. 006 above, all Group 5 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located, including the submission of a sports illumination plan as may be required by Part 9 of Article 14.
3. No building designed primarily and specifically for such use shall be located within 100 feet of any adjoining property which is in an R district.
4. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans.

### **8-504 Additional Standards for Commercial Recreation Parks**

1. The minimum lot size shall be five (5) acres.
2. The park shall have frontage on a public street of sufficient capacity to provide safe access and to convey the anticipated traffic associated with the proposed use, as shown by a traffic impact statement provided by the applicant.
3. No mechanical or motorized rides shall be located within 200 feet of any adjoining property which is in an R district, unless the applicant demonstrates to the BZA's satisfaction that the existing topography of the site or the provision of noise attenuation measures will adequately mitigate any sound and visual impacts of the use.
4. In reviewing an application for a permit, the BZA shall take into consideration factors such as safety, noise, dust, glare and traffic and shall impose such conditions as may be necessary to ensure that the use will be compatible and will not adversely impact the adjacent properties.

## SPECIAL PERMITS

### **PART 6      8-600   GROUP 6   OUTDOOR RECREATION USES**

#### **8-601      Group 6 Special Permit Uses**

1.    (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)
2.    Camp or recreation grounds.
3.    (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)
4.    (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)
5.    (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)
6.    Riding and boarding stables.
7.    Skeet and trapshooting ranges.
8.    Veterinary hospitals, but only ancillary to riding or boarding stables.
9.    Zoological parks.
10.   (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)

#### **8-602      Districts in Which Group 6 Uses May be Located**

1.    Group 6 uses may be permitted by right in the following districts:  
  
        PDH District: Limited to uses 6, 8 and 9 when represented on an approved development plan  
        PRC District: Limited to uses 2, 6 and 8 when represented on an approved development plan
2.    Group 6 uses may be allowed by special permit in the following districts:  
  
        R-A District: Limited to use 6  
        R-P, R-C Districts: Limited to uses 2, 6, 7 and 8  
        R-E, R-1 Districts: All uses

#### **8-603      Standards for all Group 6 Uses**

In addition to the general standards set forth in Sect. 006 above, all Group 6 special permit uses shall satisfy the following standards:

1.    All uses shall comply with the bulk regulations of the zoning district in which located, except as may be qualified below.
2.    All uses shall comply with the performance standards specified for the zoning district in which located, including the submission of a sports illumination plan as may be required by Part 9 of Article 14.

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3. No off-street parking or loading space shall be located within fifty (50) feet of any adjoining property which is in an R district.
4. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans.

**8-604** (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)

**8-605** **Additional Standards for Camp or Recreation Ground**

1. The minimum lot size requirement shall be twenty (20) acres.
2. Except for light poles, no structure or camp site shall be located closer than 100 feet to any lot line.
3. No permit shall be issued for a camp or recreation ground until the applicant has furnished evidence that the proposed development meets all requirements of the Health Department.

**8-606** (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)

**8-607** (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)

**8-608** (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)

**8-609** **Additional Standards for Riding and Boarding Stables**

1. The minimum lot size requirement shall be two (2) acres.
2. Except for light poles, no structure associated with a riding or boarding stable shall be located closer than 100 feet to any lot line.

**8-610** **Additional Standards for Skeet and Trapshooting Ranges**

1. The minimum lot size requirement shall be seventy-five (75) acres.
2. Except for light poles, no structure associated with a skeet or trapshooting range shall be located closer than 100 feet to any lot line.
3. No permit shall be issued for a skeet or trapshooting range until the applicant has furnished evidence that the proposed development meets all regulations specified by State law and all County ordinances.
4. In the consideration of an application for a permit, the BZA shall take into account both safety and noise factors, and may prescribe additional conditions with respect thereto.

## SPECIAL PERMITS

### **8-611        Additional Standards for Veterinary Hospitals**

1.     All such facilities shall be within a completely enclosed building, such building being adequately soundproofed and constructed so that there will be no emission of odor or noise detrimental to other property in the area.
2.     The construction and operation of all such facilities shall be approved by the Health Department prior to issuance of any Building Permit or Non-Residential Use Permit.

### **8-612        Additional Standards for Zoological Parks**

1.     The minimum lot size requirement shall be ten (10) acres.
2.     Except for light poles, no structure associated with the use shall be located closer than fifty (50) feet to any lot line.
3.     All such uses shall be subject to and operated in compliance with all applicable Federal, State and County regulations.
4.     The Director of the Department of Animal Control shall review the operation of the zoological park on a quarterly basis and shall have the right to conduct unannounced inspections of the facility during daylight hours.
5.     The keeping of all animals including wild or exotic animals as defined in Chapter 41 of The Code may be permitted with the approval of the Director of the Department of Animal Control, upon a determination that the animal does not pose a risk to public health, safety and welfare and that there will be adequate feed and water, adequate shelter, adequate space in the primary enclosure for the particular type of animal depending upon its age, size and weight and adequate veterinary care.

### **8-613        (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)**

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## SPECIAL PERMITS

### **PART 7      8-700   GROUP 7   OLDER STRUCTURES**

#### **8-701      Group 7 Special Permit Uses**

1.     Antique shops.
2.     Art and craft galleries.
3.     Restaurants.
4.     Rooming houses.
5.     Summer theatres.

#### **8-702      Districts in Which Group 7 Uses May be Located**

Group 7 uses may be allowed by special permit in the following districts:

R-P, R-C Districts: Limited to uses 3 and 5

R-E, R-1 Districts: All uses

R-2, R-3, R-4 Districts: Limited to uses 1, 2, 4 and 5

C-1, C-2, C-3, C-4 Districts: Limited to uses 3 and 4

#### **8-703      Standards for all Group 7 Uses**

In addition to the general standards set forth in Sect. 006 above, all Group 7 special permit uses shall satisfy the following standards:

1.     No permit issued for a Group 7 use shall exceed five (5) years. Such permit may be extended in conformance with the provisions of Sect. 012 above for not to exceed three (3) successive periods of one (1) year each. At the expiration of eight (8) years from the date the original permit was issued, the permit may be renewed in accordance with the provisions set forth in Sect. 014 above.
2.     Group 7 uses shall be permitted only in those locations where the desirability and acceptability for continued residential use is judged to be less than in surrounding residential areas.
3.     All uses shall be permitted only in residential structures, including normal residential accessory structures, existing prior to January 1, 1949. Alterations undertaken on structures shall be limited to those which will not alter the exterior appearance of the structure from that of a dwelling or normal residential accessory structure.
4.     All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
5.     All uses shall comply with the performance standards specified for the zoning district in which located.

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6. No off-street parking or loading space shall be located in any required side or rear yard that abuts an R district. No more than three (3) parking spaces shall be located in any required front yard unless specifically permitted by the BZA on a finding that such parking provisions will not adversely affect the character of the surrounding residential area.
7. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans.

### **8-704 Additional Standards for Antique Shops and Art and Craft Galleries**

1. Antique shops and art and craft galleries shall be located on lots within a Community Business Center (CBC) as delineated on the adopted comprehensive plan.
2. No goods or items offered for sale shall be displayed outdoors.

### **8-705 Additional Standards for Restaurants**

1. The minimum lot size requirements shall be five (5) acres.
2. No restaurant shall be established in any dwelling or associated farm building that has a gross floor area of less than 3000 square feet.
3. A restaurant must be located in the bona fide residence of the proprietor of such use or in its related farm building.
4. No goods or items offered for sale shall be displayed outdoors.

### **8-706 Additional Standards for Rooming Houses**

1. Rooming houses shall be located on lots which have direct access to a major thoroughfare or a service drive parallel to same, or shall be located on lots within a Community Business Center (CBC) as delineated on the adopted comprehensive plan.

### **8-707 Additional Standards for Summer Theatres**

1. A summer theatre shall not be deemed to include a drive-in motion picture theatre.
2. The minimum lot size requirements shall be five (5) acres.
3. No summer theatre shall be established in any dwelling or associated farm building that has a gross floor area of less than 3000 square feet.
4. No goods shall be sold in connection with any summer theatre except refreshments and such incidentals as are customarily sold during the theatrical performances, and no such goods shall be offered for sale except during the time the theatre is open for performances.



## SPECIAL PERMITS

### **PART 8      8-800   GROUP 8   TEMPORARY USES**

#### **8-801      Group 8 Special Permit Uses**

1.      Carnival, circus, festival, fair, horse show, dog show, steeplechase, music festival, turkey shoot, sale of Christmas trees or other seasonal commodities and other similar activities.
2.      Construction material yards accessory to a construction project.
3.      Contractors' offices and equipment sheds to include trailers accessory and adjacent to an active construction project.
4.      Promotional activities of retail merchants.
5.      Subdivision and apartment sales and rental offices.
6.      Temporary dwellings or mobile homes.
7.      Temporary farmers' markets.
8.      Temporary mobile and land based telecommunication testing facility.

#### **8-802      Districts in Which Group 8 Uses May be Located**

Group 8 uses may be allowed by special permit in the following districts:

R-A District: Limited to uses 1 and 8

R-P District: Limited to uses 1, 2, 3, 4, 5, 6 and 8

R-C District: Limited to uses 1, 2, 3, 5, 6, 7 and 8

All other R Districts: All uses

All P Districts: All uses

All C Districts: All uses

All I Districts except I-I: All uses

#### **8-803      Administration**

1.      Upon application as provided for in Sect. 010 above, the Zoning Administrator may issue a temporary special permit for any of the uses set forth in Sect. 801 above.
2.      The application for a temporary special permit for all uses shall be filed at least three (3) weeks prior to the date on which the permit is to take effect, provided that the Zoning Administrator may approve a lesser time period. The application forms shall provide such information as the Zoning Administrator shall find to be reasonably necessary for the proper administration of this Part.

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3. A temporary special permit shall not exceed the time limit specified for a given use. Any request for a longer period of time or any renewal or extension of a permit may be approved by the BZA, subject to the same procedure as specified in Sect. 009 above for the original issuance of a special permit. An application for any such approval by the BZA shall be filed ninety (90) days prior to the date on which the permit is to take effect.
4. Upon the finding that the application does sufficiently comply with the standards set forth for the use in question as well as those general standards set forth in Sect. 006 above, the Zoning Administrator shall issue a temporary special permit, setting forth the duration of the permit and specifying such conditions as to hours, location, parking, traffic access, and safety requirements as will protect the health, safety and welfare of the public and which will protect adjoining properties from any adverse effects of the activity.
5. The Zoning Administrator may revoke a temporary special permit at any time on the failure of the owner or operator of the use covered by the permit to observe all requirements of the law with respect to the maintenance and conduct of the use and all conditions in connection with the permit that were designated by the Zoning Administrator in issuing the same. Notice of such revocation shall be made by letter from the Zoning Administrator to the owner or operator of the use for which the permit has been granted, hand-delivered or mailed, return receipt requested, setting forth the grounds upon which the permit was revoked, the date and time upon which the revocation is effective, and informing the owner or operator of the appeals procedure. Upon receipt of such notice, the owner or operator of such activity shall close operation of the activity forthwith. The foregoing provisions shall not be deemed to preclude the use of any other remedy prescribed by law or by this Ordinance with respect to violations of the provisions of this Ordinance.
6. An appeal by any person aggrieved by an action of the Zoning Administrator in granting or denying a temporary special permit may be made in accordance with the provisions of Part 3 of Article 18.
7. In the case of an appeal from the revocation of a temporary special permit, the aggrieved party may request a meeting with the Zoning Administrator to present his grounds for appeal. The Zoning Administrator shall meet with the aggrieved party within forty-eight (48) hours of the date upon which the appeal is received. Within twenty-four (24) hours of the date of the meeting, the Zoning Administrator shall inform the aggrieved party, in writing, of his decision to affirm, modify or rescind the revocation of the temporary permit.

### 8-804

#### **Standards and Time Limits for Carnivals and Other Uses Set Forth in Par. 1 of Sect. 801 Above**

1. A temporary special permit may be issued for a period not to exceed twenty-one (21) consecutive days.
2. All permitted activities shall be sponsored by a volunteer fire company, local chamber of commerce, veterans' organization, service club, civic organization, church or religious organization, sports or hunt club, charitable, educational or nonprofit organization or recognized chapter thereof whose principal administrative offices are located within the County.

## SPECIAL PERMITS

3. Where the activity is a circus, fair or carnival, and the owner of the circus, fair or carnival is an entity other than the sponsoring organization, the sponsoring organization shall furnish the Zoning Administrator the name and address of the owner or owners of the circus, fair or carnival. The Zoning Administrator shall determine, from previous performance and other information, that the owner or owners are of good repute.
4. The sponsoring organization shall furnish the Health Director information as to sanitary arrangements and facilities to be used by the public and employees, and the Health Director shall advise the Zoning Administrator that such arrangements and facilities will be adequate if properly used and maintained.
5. The Zoning Administrator shall not issue a temporary special permit for a carnival or circus where such activity, as proposed, will:
  - A. Occur within two (2) miles of any other carnival or circus for which a temporary special permit has been previously obtained under this Section, and
  - B. Commence within a time period of three (3) weeks from the ending date of any other carnival or circus within a two (2) mile radius for which a temporary special permit has been previously obtained under this Section.
6. No temporary special permit shall be issued unless adequate provision is made for off-street parking and loading requirements.
7. The Zoning Administrator shall notify the Department of Animal Control upon receipt of an application for a temporary special permit involving the display or exhibition of animals. In addition to the requirements of this Ordinance, the owners and/or operators of any carnival, circus, side show, dog and pony show, trained animal show, traveling animal exhibition, menagerie or any other show, exhibition or performance similar thereto, shall procure a County license in accordance with the provisions of Chapter 25 of The Code, and a permit in accordance with the provisions of Chapter 41 of The Code.
8. A \$100.00 cash deposit shall be required to ensure the removal, within twenty-four (24) hours after the closing of the sale or event, of all structures, trash, debris and signs permitted by the provisions of Par. 3J of Sect. 12-103.

### 8-805

#### **Standards and Time Limits for Construction Material Yards**

1. A temporary special permit may be issued for a period not to exceed eighteen (18) months.
2. Such a yard shall be located within the recorded subdivision which it serves or on the same lot where the construction project is located.
3. No portion of such a yard shall be located closer than fifty (50) feet to any right-of-way line of any public street existing prior to the recording of the subdivision served by such yard or existing prior to the commencement of the construction project.

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4. No portion of such a yard shall be located closer than 150 feet to any pre-existing dwelling not owned or leased by the owner of the subdivision or construction project served by such a yard.
5. If such a yard is to be used in connection with the construction of 100 or more single family detached dwellings, then the distances specified in Par. 3 and 4 above shall be doubled.
6. All areas of such a yard and access roads thereto shall be treated or maintained in such manner as to prevent dust or debris from blowing or spreading onto adjoining properties or onto any public right-of-way. Such yards shall be maintained in a clean and orderly manner, and building material and construction residue and debris shall not be permitted to accumulate.
7. All buildings, materials, supplies and debris shall be completely removed from such yard within sixty (60) days from the date of completion of the last building to be constructed or within sixty (60) days from the date active construction is discontinued, whichever occurs first, but in no event shall the time exceed the limit set forth in Par. 1 above.
8. Where deemed necessary and desirable by the Zoning Administrator, when such yards are to be located in or adjacent to an R district, appropriate screening or fencing measures shall be provided.

### **8-806**

#### **Standards and Time Limits for Contractors' Offices and Equipment Sheds**

1. A temporary special permit may be issued for a period beginning no earlier than thirty (30) days prior to the commencement of actual construction and terminating no later than twenty (20) days after completion of the last building to be constructed in the project.
2. Such uses shall be located within the recorded subdivision or on the same lot where the construction project is located.
3. The area in the vicinity of such uses and access roads thereto shall be treated or maintained in such a manner as to prevent dust or debris from blowing or spreading onto adjoining properties or onto any public right-of-way.

### **8-807**

#### **Standards and Time Limits for Promotional Activities of Retail Merchants**

1. A temporary special permit may be issued for a period not to exceed fourteen (14) days in any three (3) month period.
2. Such promotional activities involving the outdoor display of goods and merchandise shall be conducted within an area immediately adjacent to the place where such items are customarily sold.
3. No required off-street parking space, service drive or loading area shall be utilized for such display.
4. The outdoor display of automobiles, mobile homes, trailers, camping equipment, boats, antiques, and similar large items shall not include the sale of such items in conjunction with and on the site of such display.

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5. The outdoor display of used appliances, used furniture, used housewares, used plumbing, used building materials, and other similar used merchandise shall not be authorized under this Section.

### **8-808 Standards and Time Limits for Subdivision and Apartment Sales and Rental Offices**

1. A temporary special permit may be issued for a period not to exceed two (2) years.
2. Such an office shall be incidental to and located within the recorded subdivision which it serves or on the same lot where the sales project is located.
3. Such an office shall contain no sleeping accommodations unless it is located in a model dwelling unit.
4. If located in a permanent structure, such structures shall comply with all of the requirements of this Ordinance, to include the applicable zoning district regulations.
5. Such an office shall continue only until the sale or lease of all dwelling units in the development, but in no event shall the time exceed the limit set forth in Par. 1 above.

### **8-809 Standards and Time Limits for Temporary Dwellings or Mobile Homes**

1. A temporary special permit may be issued for a period not to exceed nine (9) months.
2. Such a use shall be allowed only on a lot where a single family detached dwelling is permitted by the provisions of this Ordinance.
3. Such a use shall be allowed only in a case where a single family dwelling has been destroyed or damaged by fire or other disaster to an extent which makes such dwelling uninhabitable and only where such dwelling is to be rebuilt or repaired.
4. Occupancy of such a temporary dwelling shall be allowed only if appropriate sanitary facilities are provided as approved by the Health Department, and such occupancy shall terminate immediately upon completion of the dwelling on the same lot, but in no event shall the time exceed the limit set forth in Par. 1 above.
5. Additional conditions and requirements may be deemed necessary by the Zoning Administrator upon his review of a particular application for a temporary dwelling or mobile home, in which event he shall refer the request to the BZA for its action, and such temporary permit shall be subject to all such conditions and requirements.

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### **8-810 Standards and Time Limits for Temporary Farmers' Markets**

Temporary farmers' markets shall be deemed temporary retail sales establishments and shall be allowed in all districts where retail sales establishments are permitted uses, notwithstanding the use limitations concerning outdoor storage and display of goods set forth in the district regulations. In all other districts, notwithstanding the provisions of Sect. 2-510 or the use limitations concerning retail sales set forth in the district regulations, temporary farmers' markets may be permitted subject to the following conditions:

1. Such temporary use may be permitted only during the months of April through November.
2. No temporary special permit shall be issued unless adequate provision is made for off-street parking and safe ingress and egress to the adjacent street.
3. Such use shall be located on a lot having frontage on a principal arterial street as defined in the adopted comprehensive plan.
4. No overnight storage of vehicles shall be permitted, and no structures shall be allowed, provided, however, that fabric canopies primarily attached to vehicles shall not be deemed structures.
5. Sales shall be limited to seasonal or perishable produce, including flowers and plants.
6. The hours of operation shall be limited to daylight hours.
7. One (1) temporary sign may be permitted in accordance with the provisions of Sect. 12-103.

### **8-811 Additional Standards for a Temporary Mobile and Land Based Telecommunication Testing Facility**

Temporary mobile and land based telecommunications testing facilities designed to imitate the performance characteristics of a permanent telecommunications facility in terms of coverage features, i.e., testing of signal quality in target service areas for a period in excess of twelve (12) hours, consisting of antennas and related equipment may be permitted in accordance with the following standards, provided that testing activities using portable equipment or on mobile units, for twelve (12) hours or less in duration in a given location, shall be permitted by right:

1. A temporary special permit may be issued for a period not to exceed fourteen (14) days, which shall include the installation and removal of all equipment, antenna, and any debris created by the use. There shall be no more than two (2) temporary special permits issued for any lot in a twelve (12) month period and there shall be a minimum of sixty (60) days between each permit interval.
2. Such temporary use must comply with all federal, state and County regulations, including but not limited to regulations by the Federal Aviation Administration, the Federal Communications Commission, and the Environmental Protection Agency.
3. The temporary testing equipment for the antenna shall be located either in a trailer, vehicle or an existing structure.

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4. Antennas shall be located either on an existing structure or on vehicles which may have cranes, booms or similar mechanical devices for erecting temporary antennas. No such facility erected on a vehicle shall exceed 150 feet in height. No new ground mounted poles, monopoles or tower structures shall be permitted. Antennas mounted on existing structures shall be subject to the following:
  - A. Omnidirectional or whip antennas shall not exceed twenty (20) feet in height or seven (7) inches in diameter.
  - B. Directional or panel antennas shall not exceed six (6) feet in height or two (2) feet in width.
  - C. Satellite and microwave dish antennas shall not exceed six (6) feet in diameter.
5. There shall be no grading and the applicant shall demonstrate to the satisfaction of the Zoning Administrator that any proposed vegetation removal shall be the minimum necessary for the proposed use.
6. No commercial advertising or signs shall be allowed except as provided in Par. 7 below. There shall be no signals or lights or illumination on an antenna or temporary antenna structure except as may be required by the Federal Communications Commission, the Federal Aviation Administration, or the County and provided, however, that on all temporary antenna structures which exceed 100 feet in height, a steady red marker light shall be installed and operated at all times.
7. Written notification shall be made by the applicant to the appropriate Supervisor's office at least twenty (20) days prior to the actual testing date. Such notice shall include the location, date of proposed testing activity and the height of testing facilities. In addition, there shall be a sign, thirty-two (32) square feet in area, which shall be located so as to be visible to the public and which states: This is a 'Temporary Telecommunication Testing Site', with height range shown, dates of testing, and name of testing company and telephone number.

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## SPECIAL PERMITS

### **PART 9      8-900      GROUP 9    USES REQUIRING SPECIAL REGULATION**

#### **8-901      Group 9 Special Permit Uses**

1.    Adult book stores and adult mini motion pictures theatres.
2.    Auction establishments.
3.    Bank teller machines, unmanned.
4.    Barbershops or beauty parlors as a home occupation.
5.    Commercial nudity establishments.
6.    Home professional offices.
7.    (Deleted by Amendment #00-324, Adopted February 7, 2000, Effective March 8, 2000 at 12:01 AM)
8.    Open-air produce stands.
9.    Sawmilling of timber.
10.   Veterinary hospitals.
11.   Provisions for approving additional sign height or sign area in shopping centers.
12.   Approval of modification to minimum yard requirements for certain R-C lots.
13.   Approval of reduction to minimum yard requirements based on error in building location.
14.   (Deleted by Amendment #93-253, Adopted November 22, 1993)
15.   Modification to the regulations on permitted extensions into minimum required yards.
16.   Modification to the limitations on the keeping of animals.
17.   Accessory dwelling units.
18.   Noise barriers.

#### **8-902      Districts in Which Group 9 Uses May be Located**

1.    Group 9 uses may be allowed by right in the following districts:  
  
        PDH, PDC Districts: Limited to uses 3 and 10  
        PRC District: Limited to uses 3 and 10  
        PRM District: Limited to use 3

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C-2, C-3, C-4 Districts: Limited to use 3

C-5 District: Limited to uses 3, 8 and 10

C-6, C-7, C-8, C-9 Districts: Limited to uses 3, 8 and 10

I-2 District: Limited to use 3

I-3, I-4, I-5, I-6 Districts: Limited to uses 3 and 10

2. Group 9 uses may be allowed by special permit in the following districts:

R-A District: Limited to uses 8, 9, 10 and 17

R-P District: Limited to uses 6, 8, 10 and 17

R-C District: Limited to uses 6, 8, 10, 12 and 17

R-E, R-1 Districts: Limited to uses 4, 6, 8, 9, 10 and 17

R-2 District: Limited to uses 4, 6, 8 and 17

R-3, R-4, R-5, R-8 Districts: Limited to uses 6, 8 and 17

R-12 through R-MHP Districts: Limited to uses 3 and 8

PDH, PRC Districts: Limited to uses 6, 8 and 17

PDC District: Limited to use 17

C-7 District: Limited to uses 1 and 5

C-8 District: Limited to use 2

I-I, I-1, I-2 Districts: Limited to use 8

I-3, I-4, I-5, I-6 Districts: Limited to use 8

### **8-903 Standards for all Group 9 Uses**

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

### **8-904 Additional Standards for Adult Book Stores and Adult Mini Motion Picture Theatres**

1. Such a use shall be located only within a regional shopping center.
2. Such a use shall not abut a residentially used or zoned property.
3. Such a use shall not be located closer than 1000 feet to any church or school.

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4. No two such adult book stores or adult mini motion picture theatres may be located closer than 1000 feet from each other.

### **8-905 Additional Standards for Barbershops or Beauty Parlors as a Home Occupation**

1. Such a use shall be conducted within the dwelling which is the bona fide residence of the principal practitioner.
2. There shall be no exterior evidence that the property is used in any way other than for a dwelling.
3. No employees, whether paid or not for their services, except persons who use the dwelling as their bona fide residence, shall be involved in the use.
4. Facilities shall be limited to those necessary to accommodate no more than one patron at a time.
5. Notwithstanding the provisions of Sect. 014 above, barbershops or beauty parlors approved prior to August 14, 1978, and currently valid as of June 1, 1983, may be renewed for one five (5) year period under the ordinances in effect at the time the permit was originally approved, provided that the principal user is the same as the one who originally received the special permit. Thereafter, any renewal shall be subject to the provisions of this Ordinance.

### **8-906 Additional Standards for Commercial Nudity Establishments**

1. Such a use shall be located only within a regional shopping center.
2. Such a use shall not abut a residentially used or zoned property.
3. Such a use shall not be located closer than 1000 feet to any church or school.
4. No two such commercial nudity establishments may be located closer than 1000 feet from each other.

### **8-907 Additional Standards for Home Professional Offices**

1. The premises shall have the exterior appearance of a single family detached dwelling.
2. The structure shall be the domicile of the principal practitioner and his family.
3. Additional professionals and assistants may be involved in the operation, provided that the total number of persons, whether paid or voluntary, involved in the operation shall not exceed four (4); except that on a lot of two (2) or more acres, the total number of persons shall not exceed six (6).
4. In consideration of an application for a permit, the BZA shall review all non-residential uses within the area, and shall determine that such use, together with all other non-residential uses, does not constitute sufficient non-residential activity as might modify or disrupt the predominantly residential character of the area.

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5. Notwithstanding the provisions of Sect. 014 above, home professional offices approved prior to January 24, 1977 may be renewed for one five (5) year period under the ordinances in effect at the time the permit was originally granted, provided that the principal user is the same as the one who originally received the special permit. Thereafter, any renewal shall be subject to the provisions of this Ordinance.

**8-908** (Deleted by Amendment #00-324, Adopted February 7, 2000, Effective March 8, 2000 at 12:01 AM)

**8-909 Additional Standards for Open-Air Produce Stands**

Open-air produce stands shall be deemed retail sales establishments and shall be allowed in all districts where retail sales establishments are permitted uses, notwithstanding the use limitations concerning outdoor storage and display of goods set forth in the district regulations. In all other districts, notwithstanding the use limitations concerning retail sales set forth in the district regulations, open-air produce stands may be permitted as a temporary use subject to the following conditions:

1. Sales shall be limited to seasonal or perishable produce, including flowers and plants.
2. Such use shall be located on a lot within an area designated on the adopted comprehensive plan as a Community Business Center (CBC).
3. No special permit shall be issued unless adequate provision is made for off-street parking and safe ingress and egress to the adjacent street.
4. Structures shall be located in accordance with the bulk regulations of the zoning district in which located.
5. Such temporary use may be permitted only during the months of April through November, and the hours of operation shall be limited to daylight hours.
6. One (1) sign may be permitted in accordance with the provisions of Sect. 12-103.

**8-910 Additional Standards for Sawmilling of Timber**

1. No permit issued for a sawmilling operation shall exceed two (2) years. Such permit may be extended in conformance with the provisions of Sect. 012 above for not to exceed two (2) successive periods of two (2) years each, but in no event shall such an operation exist for more than a total of six (6) years.
2. Sawmilling operations shall be limited to timber grown on the same property.
3. No structure and no storage of lumber, logs or timber shall be located closer than 100 feet to any lot line. No structure housing or enclosing a saw shall be located closer than 400 feet to any lot line which abuts an R district.

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4. The mill shall operate not more than one (1) saw at any one time, and no blade shall exceed forty-eight (48) inches in diameter.
5. There shall be no more than five (5) employees per shift, and no more than one (1) shift in any twenty-four (24) hour period.
6. Such sawmilling operation shall not maintain an on-site stockpile of more than 100 unsawn logs nor sawn lumber exceeding 8500 board feet at any one time.
7. The hours and days of operation shall be established by the BZA, except that such operation shall not extend during the period between 8 PM and 8 AM.
8. The BZA may require such screening, planting, fencing, preservation of trees, entrances, design of structures, or any other requirement which will effect a minimum impact on the surrounding area.

### **8-911 Additional Standards for Veterinary Hospitals**

1. All such buildings shall be within a completely enclosed building, such building being adequately soundproofed and constructed so that there will be no emission of odor or noise detrimental to other property in the area.
2. The construction and operation of all such facilities shall be approved by the Health Department prior to issuance of any Building Permit or Non-Residential Use Permit.
3. In the R-A, R-P, R-C, R-E and R-1 Districts, there shall be a minimum lot size requirement of one (1) acre and veterinary hospitals shall be subject to the standards presented in Par. 1, 2, 3, and 4 of Sect. 907 above.

### **8-912 Provisions for Approving Additional Sign Height or Sign Area in Shopping Centers**

The BZA may approve a special permit for the following, but only in accordance with the provisions of Sect. 12-304:

1. To allow an increase in the height of a freestanding sign in a neighborhood or community shopping center.
2. To allow additional sign area, additional sign height or different arrangement of sign area distribution for a regional or super-regional shopping center.
3. To allow building-mounted signs for uses so located within a shopping center as not to have frontage visible from a street.

### **8-913 Provisions for Approval of Modifications to the Minimum Yard Requirements for Certain R-C Lots**

The BZA shall approve a special permit to allow a modification to the minimum yard requirements of the R-C District, but only in accordance with the following provisions:

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1. The proposed dwelling or addition thereto is on a lot which was comprehensively rezoned to the R-C District on July 26, 1982 or August 2, 1982 and such lot was: (a) the subject of final plat approval prior to July 26, 1982, or (b) recorded in accordance with a final consent decree entered in Chancery No. 78451 by the Fairfax County Circuit Court on September 17, 1985, or (c) recorded in accordance with a final consent decree entered in Chancery Nos. 78425, 78452, 78454, 78461, 78462 and 78465 by the Fairfax County Circuit Court on September 17, 1985, as amended by a final consent decree entered on November 25, 1991 by the Fairfax County Circuit Court in Chancery No. 123887.
2. Such modification shall result in a yard not less than the minimum yard requirement of the zoning district which was applicable to the lot on July 25, 1982.
3. Such a modification shall be approved if it is established that the resultant development will be harmonious with existing development in the neighborhood and will not adversely impact the public health, safety and welfare of the area.
4. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat. Such plat shall be prepared by a certified land surveyor or registered engineer except plats submitted for additions to existing single family dwellings or accessory structures related to existing single family dwellings may be prepared by the applicant. Such plat shall contain the following information:
  - A. The dimensions of the lot or parcel, the lot lines thereof, and the area of land contained therein.
  - B. The location, dimensions and height of any building, structure or addition, whether existing or proposed. In addition, for decks, the height of the finished floor above finished ground level and for accessory structures, the height of the highest point of the structure from finished ground level.
  - C. The distance from all property lines to the proposed building, structure or addition, shown to the nearest one-tenth of a foot.
  - D. The existing and intended use of each building or structure or part thereof, including the number of dwelling units within a dwelling.
  - E. The location and configuration of any existing or proposed off-street parking space(s), the number of spaces proposed to be provided, and information as to the proposed surfacing of such areas.
  - F. The delineation of any Resource Protection Area and Resource Management Area.
  - G. The signature and certification number, if applicable, of the person preparing the plat.

### 8-914

#### **Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location**

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements

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applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½ x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
  - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
  - B. Total area of the property and of each zoning district in square feet or acres.
  - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
  - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
  - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
  - F. Means of ingress and egress to the property from a public street(s).
  - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
  - H. If applicable, the location of well and/or septic field.
  - I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.
  - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
  - K. Seal and signature of professional person certifying the plat.

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In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

2. The BZA determines that:
  - A. The error exceeds ten (10) percent of the measurement involved, and
  - B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
  - C. Such reduction will not impair the purpose and intent of this Ordinance, and
  - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
  - E. It will not create an unsafe condition with respect to both other property and public streets, and
  - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
  - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

**8-915** (Deleted by Amendment #93-253, Adopted November 22, 1993, Effective November 23, 1993 at 12:01 AM)

### **8-916 Provisions for Modifications to the Regulations on Permitted Extensions into Minimum Required Yards**

The BZA may approve a special permit to allow a modification to the regulations on permitted extensions into minimum required yards, as set forth in Sect. 2-412, but only in accordance with the following:



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1. Such a modification may be approved if the BZA determines, based on topography of the lot and the size and bulk of the proposed extension, that the resultant development will not adversely impact the adjacent properties.
2. The BZA may impose such conditions as it may deem necessary, to include landscaping and screening, to ensure that the extension will be compatible with the adjacent area.
3. The BZA shall not approve a special permit for a modification that will result in an extension that exceeds the applicable distances specified in Sect. 2-412 by more than fifty (50) percent. In addition, where no extension is permitted by the provisions of Sect. 2-412, the BZA shall not approve a special permit that will result in a structure that extends into a minimum required yard by more than fifty (50) percent of the required yard.

### **8-917 Provisions for Modifications to the Limitations on the Keeping of Animals**

The BZA may approve a special permit to allow the keeping of animals that are not commonly accepted pets, to allow the keeping of animals in numbers greater and/or on lots smaller than permitted by Sect. 2-512, or to allow modifications to the location regulations of Par. 9 of Sect. 10-104, but only in accordance with the following:

1. In reviewing an application, the BZA shall consider the kinds and numbers of animals proposed to be kept, the characteristics thereof, the proposed management techniques, and the location that such animals will be kept on the lot. The BZA may impose such conditions, to include screening and minimum yards, as may be necessary to ensure that there will be no adverse impact on adjacent property and no emission of noise and/or odor detrimental to other property in the area.
2. Such modification may be approved if it is established that the resultant use will be harmonious and compatible with the adjacent area.
3. Notwithstanding the requirements set forth in Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat, which may be prepared by the applicant and shall contain the following information:
  - A. The dimensions of the lot or parcel, the boundary lines thereof, and the area of land contained therein.
  - B. The dimensions, height and distance to all lot lines of any existing or proposed building, structure or addition where such animals are to be kept.
  - C. The delineation of any Resource Protection Area and Resource Management Area.
  - D. The signature and certification number, if applicable, of the person preparing the plat.

### **8-918 Additional Standards for Accessory Dwelling Units**

As established by the Fairfax County Board of Supervisors' Policy on Accessory Dwelling Units (Appendix 5), the BZA may approve a special permit for the establishment of an accessory dwelling

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unit with a single family detached dwelling unit but only in accordance with the following conditions:

1. Accessory dwelling units shall only be permitted in association with a single family detached dwelling unit and there shall be no more than one accessory dwelling unit per single family detached dwelling unit.
2. Except on lots two (2) acres or larger, an accessory dwelling unit shall be located within the structure of a single family detached dwelling unit. Any added external entrances for the accessory dwelling unit shall be located on the side or rear of the structure.

On lots two (2) acres or greater in area, an accessory dwelling unit may be located within the structure of a single family detached dwelling unit or within a freestanding accessory structure.
3. The gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the total gross floor area of the principal dwelling unit. When the accessory dwelling unit is located in a freestanding accessory structure, the gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the gross floor area of the accessory freestanding structure and the principal dwelling unit.
4. The accessory dwelling unit shall contain not more than two (2) bedrooms.
5. The occupancy of the accessory dwelling unit and the principal dwelling unit shall be in accordance with the following:
  - A. One of the dwelling units shall be owner occupied.
  - B. One of the dwelling units shall be occupied by a person or persons who qualify as elderly and/or disabled as specified below:
    - (1) Any person fifty-five (55) years of age or over and/or
    - (2) Any person permanently and totally disabled. If the application is made in reference to a person because of permanent and total disability, the application shall be accompanied by a certification by the Social Security Administration, the Veterans Administration or the Railroad Retirement Board. If such person is not eligible for certification by any of these agencies, there shall be submitted a written declaration signed by two (2) medical doctors licensed to practice medicine, to the effect that such person is permanently and totally disabled. The written statement of at least one of the doctors shall be based upon a physical examination of the person by the doctor. One of the doctors may submit a written statement based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability.

For purposes of this Section, a person shall be considered permanently and totally disabled if such person is certified as required by this Section as unable to engage in any substantial gainful activity by reasons of any medically determinable physical or mental impairment or deformity which can be

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expected to result in death or can be expected to last for the duration of the person's life.

- C. The accessory dwelling unit may be occupied by not more than two (2) persons not necessarily related by blood or marriage. The principal single family dwelling unit may be occupied by not more than one (1) of the following:
  - (1) One (1) family, which consists of one (1) person or two (2) or more persons related by blood or marriage and with any number of natural children, foster children, step children or adopted children.
  - (2) A group of not more than four (4) persons not necessarily related by blood or marriage.
- 6. Any accessory dwelling unit established for occupancy by a disabled person shall provide for reasonable access and mobility as required for the disabled person. The measures for reasonable access and mobility shall be specified in the application for special permit. Generally, reasonable access and mobility for physically disabled persons shall include:
  - A. Uninterrupted access to one (1) entrance; and
  - B. Accessibility and usability of one (1) toilet room.
- 7. The BZA shall review all existing and/or proposed parking to determine if such parking is sufficient to meet the needs of the principal and accessory dwelling units. If it is determined that such parking is insufficient, the BZA may require the provision of one (1) or more off-street parking spaces. Such parking shall be in addition to the requirements specified in Article 11 for a single family dwelling unit.
- 8. The BZA shall determine that the proposed accessory dwelling unit together with any other accessory dwelling unit(s) within the area will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood. In no instance shall the approval of a special permit for an accessory dwelling unit be deemed a subdivision of the principal dwelling unit or lot.
- 9. Any accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.
- 10. Upon the approval of a special permit, the Clerk to the Board of Zoning Appeals shall cause to be recorded among the land records of Fairfax County a copy of the BZA's approval, including all accompanying conditions. Said resolution shall contain a description of the subject property and shall be indexed in the Grantor Index in the name of the property owners.
- 11. The owner shall make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.
- 12. Special permits for accessory dwelling units shall be approved for a period not to exceed five (5) years from the date of approval; provided, however, that such special permits may be

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extended for succeeding five (5) year periods in accordance with the provisions of Sect. 012 above.

13. Notwithstanding Par. 5 of Sect. 9-012, any accessory dwelling unit approved prior to July 27, 1987 and currently valid may be extended in accordance with the provisions of this Section and Sect. 012 above.

### **8-919**

#### **Noise Barriers**

The BZA may approve an increase in height and/or modification to the corresponding location regulations as set forth in Sect. 10-104 for a noise barrier which reduces adverse impacts of highway noise on properties located adjacent to major thoroughfares, or which reduces adverse noise impacts of commercial and industrial uses on adjacent properties, in accordance with the following:

1. A noise impact study shall be submitted with the application. The study shall demonstrate the need for such a barrier and the level of mitigation to be achieved, and shall include the height of the barrier, the proposed location of the barrier on the property, the acoustical design and structural features of the barrier, the type of building materials to be used in construction of the barrier and the proposed measures to mitigate any visual impacts of the barrier on adjacent property, to include the location and design of the barrier, use of berming and landscaping.
2. The BZA shall determine that the proposed height and location of the noise barrier are necessary in order to achieve mitigation of the noise and that the noise barrier will not adversely impact the use or development of surrounding properties.
3. Before establishment, the noise barrier shall be subject to the provisions of Article 17, Site Plans or other appropriate submission as determined by the Director.